



HOUSE BILL 1173: Disapprove Certain DHHS Rules.

2019-2020 General Assembly

Committee:	House Judiciary. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	June 10, 2020
Introduced by:	Reps. C. Smith, McNeill	Prepared by:	Shawn Middlebrooks
Analysis of:	PCS to First Edition H1173-CSBQ-44		Staff Attorney

OVERVIEW: *The Proposed Committee Substitute (PCS) to House Bill 1173 would disapprove and modify implementation of certain rules adopted by the North Carolina Department of Health and Human Services (NCDHHS) for the operation, design, and construction of county jails and jail districts.*

BACKGROUND AND CURRENT LAW: On April 18, 2019, the North Carolina Rules Review Commission (Commission) approved 33 rules for adoption by the North Carolina Department of Health and Human Services (NCDHHS) in accordance with G.S. 150B-21.3A (*Period Review and Expiration of Existing Rules*). The rules proposed substantial changes for the operation, design, and construction of county jails and jail districts (10A NCAC 14J). The Commission received over 10 letters of objection to these rules, clearly requesting legislative review.

G.S. 150B-21.3 provides that when the Commission receives written objection to a rule from 10 or more persons, clearly requesting legislative review, the rule becomes effective as follows:

- On the earlier of the thirty-first legislative day or the day of adjournment of the next regular session of the General Assembly that begins at least 25 days after the date the Commission approved the rule, unless a different effective date applies.
- If a **bill that specifically disapproves the rule is introduced** in either house of the General Assembly before the thirty first legislative day of that session, the rule becomes effective on the earlier of either the day an unfavorable final action is taken on the bill or the day the session adjourns without ratifying the bill that disapproves the rule.

A permanent rule that is disapproved by a bill enacted into law before it becomes effective does not become effective.

BILL ANALYSIS: The PCS to House Bill 1173 disapprove and modify the implementation of certain rules adopted by NCDHHS.

SECTION 1 would disapprove the following Rules:

10A NCAC 14J . 1001 (Medical Plan)
10A NCAC 14J .1210 (Other Areas)

SECTION 2 would modify implementation of the "Definitions of Jails Rule" to allow for the supervision of inmates from a secure location, unassisted by an electronic device, when an in-person check would be unsafe.

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This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

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SECTION 3 would modify implementation of the "Contents of Operations Manual Rule" to clarify operating standards for *suicide prevention programs* in local confinement facilities.

SECTION 4 would modify implementation of the "Classification Systems and Design Capacity Rule" to allow a jail to temporarily exceed its total design capacity if the excess is caused by a sudden influx of inmates beyond the jail or administrator's control, and require NCDHHS to specify the total number of inmates awaiting transport to the Division of Prisons if it concludes that a jail has exceeded its design capacity.

SECTION 5 would modify implementation of the "Screening of Inmates Rule" to require medical personnel and officers to administer a medical questionnaire to inmates being admitted into a local confinement facility.

SECTION 6 would approve the following Rules:

- 10A NCAC 14J .0102 (Applicability – Operations and Enforcement and Incorporation by Reference)
- 10A NCAC 14J .0103 (Applicability – Construction)
- 10A NCAC 14J .0201 (Requirement for Operations Manual)
- 10A NCAC 14J .0204 (Review of Manual)
- 10A NCAC 14J .0302 (Separation of Male and Female Inmates)
- 10A NCAC 14J .0303 (Confinement of Inmates Under 18 Years of Age)
- 10A NCAC 14J .0402 (Portable Fire Extinguishers)
- 10A NCAC 14J .0403 (Fire Plan, Fire Evacuation Training, and Disaster Plan)
- 10A NCAC 14J .0404 (Mattresses)
- 10A NCAC 14J .0405 (Keys)
- 10A NCAC 14J .0501 (General Security Requirements)
- 10A NCAC 14J .0601 (Supervision)
- 10A NCAC 14J .0702 (Mattresses and Bedding)
- 10A NCAC 14J .0705 (Personal Hygiene Items)
- 10A NCAC 14J .0904 (Menus)
- 10A NCAC 14J .1201 (Applicability – Construction)
- 10A NCAC 14J .1202 (Consultation and Technical Assistance)
- 10A NCAC 14J .1203 (Compliance Review and Approval)
- 10A NCAC 14J .1207 (Inmate Processing Area and Padded Cell)
- 10A NCAC 14J .1212 (Floors, Ceilings, and Walls)
- 10A NCAC 14J .1213 (Showers and Plumbing Fixtures)
- 10A NCAC 14J .1214 (Windows and Glazing)
- 10A NCAC 14J .1215 (Doors, Bunks, Locks, and Fasteners)
- 10A NCAC 14J .1218 (Plumbing Systems)
- 10A NCAC 14J .1219 (Electrical Systems)
- 10A NCAC 14J .1225 (Standards for Dayrooms)
- 10A NCAC 14J .1226 (Standards for Dormitories)

EFFECTIVE DATE: This act is effective when it becomes law.